

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 32

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LEE S. WEINBLATT

Appeal No. 96-3288
Application 08/309,544¹

ON BRIEF

Before THOMAS, KRASS and JERRY SMITH, Administrative Patent Judges.

THOMAS, Administrative Patent Judge.

DECISION ON APPEAL

¹ Application for patent filed September 20, 1994.
According to the appellant, this application is a continuation of Application 08/003,327, filed January 12, 1993.

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Appellant has appealed to the Board from the examiner's final rejection of claims 1 and 3 to 16, which constitute all the claims remaining in the application.

Representative claim 1 is reproduced below:

1. A finger-mounted computer interface device for use with a touch-screen type of monitor, comprising:

a stylus; and

ring means for mounting said stylus on a finger of a person such that said stylus is positioned above the finger in a manner that does not interfere with a typing operation of the finger on a keyboard, said stylus being connected with said ring means so as to permit engagement of said stylus with a touch-screen type of monitor of a computer when said mounting finger is moved toward said monitor screen;

wherein said ring means has a center longitudinal axis and said stylus has a center longitudinal axis which is spaced from and substantially parallel to the center longitudinal axis of said ring means.

The following references are relied on by the examiner:

Narayanan	3,835,453	Sep.
10, 1974		
Garwin et al. (Garwin)	4,845,684	Jul. 04,
1989		
Levine	4,954,817	Sep. 04,
1990		
Gilchrist	5,144,594	Sep.
01, 1992		

All claims on appeal stand rejected under 35 U.S.C. §
103. As evidence of obviousness, the examiner relies upon

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Garwin in view of Levine as to claims 1, 3, 4 and 7 to 16, with the addition of Gilchrist as to claim 5, and with a separate addition of Narayanan as to the original combination for claim 6.

Rather than repeat the positions of the appellant and the examiner, reference is made to the briefs and the answer for the respective details thereof.

OPINION

We reverse all rejections.

At page 4 of the answer, the examiner asserts that it would have been obvious for the artisan to have included the ring means taught by Levine in the device of Garwin so that the stylus [in Garwin?] could have been mounted on a finger and would not have interfered with a typing operation. In reality, there are two ring means in Levine's figures 1 and 2, that of the stylus ring 10 with its stylus ring point 12 and that of the finger palette 20 and its associated ring 24. We are not sure how this combination would be achieved.

We agree with one of appellant's views that Levine's device appears to be self contained and would not require the user to remove a hand from a keyboard to enable a certain data

entry operation with the finger palette 20-stylus ring 10 combination. Thus, we do not understand why the artisan would have found it obvious within 35 U.S.C. § 103 to have modified Levine in view of Garwin's teaching.

We also do not understand why the artisan would have found it obvious within 35 U.S.C. § 103 to have modified Garwin's teachings in light of Levine. The examiner's approach may be based upon the general, broad teaching of Levine that this reference indicates it was known in the art to have devices attached to the thumb and fingers of users typing information on a keyboard as shown in Levine's Fig. 2 such that, on this basis, the examiner took the view that it would have been obvious for the artisan to have modified the stylus of Garwin in view of Levine. The self-contained nature of Levine's teachings leads away from this interpretation. If we were to assume, for the sake of argument, that the artisan would have so combined a general teaching from Levine of hand or finger mounted data entry means with the stylus of Garwin, the examiner's position does not come to grips with the majority of the limitations of each independent claim on appeal other than to dismiss them as "design choice". Why the

stylus would be positioned above the finger as in independent claim 1 is allegedly a design choice to the examiner. The examiner specifically argues at page 4 of the answer that the center longitudinal axis of the ring being parallel to that of the stylus as well as the specific orientations set forth in claims 8 to 14 were considered by the examiner to have been a matter of design choice. Design choice arguments, while valid per se, have limited applicability and persuasiveness.

Furthermore, the examiner views method claim 16 as setting forth how to use the apparatus allegedly specified in claim 1. The examiner apparently views that since the device of Garwin as modified by Levine meets the apparatus claim 1 limitations, the method of claim 16 is inherently met. This and the design choice line of reasoning advanced by the examiner as to the initial claims on appeal essentially beg the question within 35 U.S.C. § 103. Substantially all or major portions of each independent claim on appeal are left unexplained as to why they would have been obvious other than on the basis of such weak arguments. Certainly, there is little evidence in the applied prior art of Garwin and Levine to suggest to the

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artisan the obviousness of the subject matter of at least the independent claims on appeal. As such, and since Gilchrist and Narayanan fail to cure the deficiencies of Garwin and Levine as to dependent claims 5 and 6, the respective rejections under 35 U.S.C. § 103 of all claims on appeal are reversed.

REVERSED

JAMES D. THOMAS)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
ERROL A. KRASS))
Administrative Patent Judge)	APPEALS AND
)	
)	INTERFERENCES
)	
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